



OFFICE OF THE SELECTMEN

September 6, 2006



Ms. Alicia C. Matthews, Director
Cable Television Division
Department of Telecommunications & Energy
One South Station
Boston, MA 02110

Dear Ms. Matthews:

In reference to your letter dated August 23, 2006 regarding Competitive Franchising Rulemaking, please find below my reply comments to each question.

1.) Who initially reviews cable license applications on behalf of the Issuing Authority in deciding whether to begin the licensing process pursuant to 207 C.M.R. § 3.02(2)? How soon after receipt of the application does this review begin?

The Permanent Cable Television Committee, in conjunction with the Town Administrator, reviews applications for licensing on behalf of the issuing authority once an application for license is received. The Town currently has issued only one license, to Comcast. As soon as the license application is received, the review process begins by scheduling a meeting of the Permanent Television Committee. A copy of the application is also distributed to all members of the Board of Selectmen.

2) Has the municipality established a Cable Advisory Committee? Is this a standing committee? When is the committee in session? How often does the committee meet? Who may serve on the committee? How soon after a cable license application is submitted to the municipality does the Cable Advisory Committee receive application materials and begin its review?

As stated above, the Town has established a permanent Cable Advisory Committee. Due to the fact that Comcast has an existing license which does not expire until the year 2014, this Committee is in hiatus but may be easily reinstated. The members of the committee are appointed on a permanent basis in order to take advantage of the experience of those members who have dealt with licenses in the past. As stated above, when a license application is received, it is referred to the Cable Advisory Committee.

3.) Does the municipality have a city solicitor or town counsel? Who represents the municipality in negotiations with the cable license applicant? How soon after a cable license application is submitted to the municipality does the negotiator receive application materials and

commence negotiations? Does the negotiator have direct authority to offer final terms that may be included in a license to be executed by the municipality?

The Town of Whitman engages Town Counsel for general purposes and has engaged Special Counsel for negotiating a cable license where the Town Administrator is of the opinion that the negotiating process is at a stalemate or is not proceeding according to expectations.

4.) Is there any period of time wherein a Mayor or Board of Selectmen lacks authority to execute a contract on behalf of the community? For example, during the time after an election and before the newly elected Mayor takes an oath of office, may the out-going Mayor execute a cable license? Please describe the circumstances and the duration of the period.

The Board of Selectmen, acting in the majority, always has the authority to act on a cable license, so long as three of the five members are available to constitute a quorum. We have never experienced an instance in which the Board of Selectmen was not available to act in a timely fashion on issuing or approving a cable license.

5.) Many municipalities commented that 90 days is not sufficient to conduct a review of an initial license application. Please state whether there are any provisions of the current licensing process that may be streamlined and, if so, please identify such provisions.

When a cable license application is submitted, there is a lengthy process involved in reviewing the application and then meeting with the licensee to determine how to proceed in issuing said license. In the case of our past license with Comcast, we spent approximately one year meeting with Comcast in efforts to negotiate what we believed to be an equitable license agreement and after my determining that we could not reach agreement as the committee was formed, I engaged Cable Counsel to assist us. It then took an additional seven months to complete the negotiating process at a point that was acceptable to both the Town and Comcast. I am not aware of any procedures short of arbitration that would streamline the negotiating process and it is essential we should be permitted to take the time necessary to negotiate what is a very complex and far-reaching agreement that towns live with for a period of up to ten years.

6.) Please provide a typical timeline of all steps necessary to identify the community's cable-related needs and interests and to issue the issuing authority report or request for proposal? Please include intervals between notices and public hearings, as well as the approximate number of days necessary for each step.

The process for Notice and Hearings is spelled out in the requirements for issuing a cable license.

7.) Please state the date on which the municipality last conducted a review of its cable-related needs and interests. How often is a full review of cable-related needs and interests necessary? Would any of the intervals identified in the timeline in your response to Question 6 change absent a full review of cable-related needs and interests.


The Town of Whitman has formed a Cable Access Corporation in partnership with the Town of Hanson. This Cable Access Corporation provides all basic, local cable, public education and government broadcasting. The Cable Board of Directors serves as a committee reviewing the offerings of our existing licensee and provides feedback to the Boards of Selectmen for the Towns of Whitman and Hanson. Given that Comcast has established a virtual monopoly on cable services in this marketplace, it would be refreshing for us to have an opportunity to review another organization interested in providing cable services for our communities, and we would welcome an opportunity to review those needs based on what the competitor is offering.

8.) N/A

While I had intended to attend the August 16th hearing at the Cable Television Division, unfortunately a last minute crisis prevented me from doing so. It is my belief that the communities of Massachusetts are best served when we have a full and thorough application and review process. That process simply cannot be done within 90 days. Oftentimes we find cable comes in to negotiate with the attitude "we are the only game in Town and this is what we are going to do." My personal experience in negotiating our last contract with Comcast was being told very directly, and in no uncertain terms, that Comcast was placing a deal on the table and it was the only deal to be offered. After meeting with representatives of the cable company for over a year, I determined that it would be in our best interest to hire Special Counsel. I did select an Attorney who had prior experience in negotiating contracts with Comcast and brought that experience to the table. The end result was a contract significantly better for the ratepayers and residents of the Town of Whitman than what would have been served up had we reached impasse. I understand that Verizon would like to see the process streamlined as would any organization. However, when you are negotiating a product that provides very limited competition with long-term agreements, it is certainly to the community's best interest to take an adequate amount of time to analyze the offering, to review that with the ratepayers or customers that would be serviced in the Town, to have a review by the governing board of the Town that ultimately issues the license, and to have an adequate legal review of the terms and conditions. This simply cannot be done in 90 days, and I seriously doubt that it can be done in six months.

I appreciate this opportunity to participate in the analysis of competitive franchising rulemaking.

Sincerely,


Francis J. Lynam
Town Administrator

FJL/sr